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# SECOND CHAMBERS AT HOME & ABROAD

## A Comparison and a Contrast

BY

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LONDON

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ENGLAND.

CAMBRIDGE MODERN HISTORY.

ARTICLES IN THE ENCYCLOPÆDIA BRITANNICA.

BRYCE'S "AMERICAN COMMONWEALTH."

J. E. C. BODLEY'S "FRANCE."

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## Second Chambers at Home and Abroad

MUCH has been recently written and much more will be written about the House of Lords, its advantages and its shortcomings, its history and constitution and its re-constitution. But there is another aspect to this question of the composition and functions of an Upper Chamber, which has not been so much considered, and with regard to which accurate and adequate information is not perhaps very readily forthcoming. The constitution and functions of existing Upper Chambers in other countries afford an amount of valuable subject matter, not only of historical and political interest in itself, but as providing the results of experience elsewhere. The conditions of these countries differ in many respects so widely from our own that it by no means follows that what may have been found good for them would be equally good for us. Indeed in many cases such arrangements as prevail in other Parliaments would be entirely impossible and inapplicable here. But that an efficient second Chamber is essential in order to prevent hasty and ill-considered legislation is, with the illustrious exceptions of Greece and Costa Rica, the unanimous opinion of all civilised and self-governing nations. Even in the cases of the most recent constitutions and the most democratic

communities, this principle obtains. It may accordingly not be inopportune to offer, as simply and concisely as possible, some account of how the Upper Chambers elsewhere are constituted, what are the conditions of membership, and particularly what is the procedure with regard to money bills, and in cases of disagreement between the two Houses.

It will, however, probably be helpful first of all very briefly to recall the origin and evolution of our own Legislature.

# Evolution of the English Parliament

It is probable that the earliest beginnings of deliberative assemblies in this country are to be found in the ecclesiastical Synods which were introduced by Archbishop Theodore at the end of the seventh century, after his dividing the country into dioceses and parishes. These meetings for conference and legislation on ecclesiastical matters suggested similar ones for secular purposes. After the Union of Kingdoms the chief assembly of the nation was the Witanagemote or Assembly of the Wise, which consisted of Bishops, Abbots, Ealdormen, Thegns, Officers of State, and leading tenants-in-chief of the Crown ; while for more local purposes there were the Hundred-moot and the Shire-gemot. Under the Norman Kings there was a Council of Magnates, which came to be known as the Great Council. It consisted of Archbishops, Bishops, Earls and Greater Barons, summoned by the King's letters, together with tenants-in-chief, who were summoned by general writ through the Sheriff. It was, however within the discretion of the Crown to summon a Baron for one Parliament, or one session, only, and to omit to summon his heir. The number of temporal Peers summoned to the Parliaments of the House of Plantagenet is stated by Hallam in his Constitutional History to have been very various. This Great Council constituted not only an advisory body to the King, but

also provided some check upon his arbitrary government, and by the Great Charter this Council succeeded in obtaining the concession that no scutage or aid (except feudal) should be levied by the King unless with their consent. As the towns grew in size and importance, and as more and more people, both in the boroughs and the shires, became subject to assessment, which was difficult to arrive at, representatives of these came to be added ; and to the Parliament of 1265 Simon de Montfort summoned two Knights from every Shire, and two burgesses from each city and corporate borough to assist in fixing the assessments. The people's representatives were elected by the whole body of freeholders, but this practically came eventually to mean the Corporations—the origin of many pocket boroughs. It was soon found by Edward I. (1272-1307) much more satisfactory to obtain grants instead of forced aids. When this system was adopted by him in 1295, each estate voted its own contribution. Happily in the result, the clergy refused to sit with the others, and voted their own subsidies in Convocation. In Edward II. (1307-1327) it was established that redress of grievances should precede supply, that the Commons should investigate the right disposal of their grants, and that they should approve the King's Councillors. It is considered by Hallam that the Houses were divided as they are at present, in the eighth, ninth, and nineteenth years of Edward II., but certainly by the first of Edward III. (1327-1377). Before that time the Commons probably sat at the bottom of Westminster Hall, while the Lords occupied the

upper end ; it is not, however, likely that they ever voted together. The usual and primary object of calling a Parliament was to impose taxes ; and these, for many years after the introduction of the Commons, were laid in different proportions upon the three estates of the realm, *i.e.*, the Lords Spiritual and Temporal, and the Commons.

At first the Commons were only concerned with the assessment and not with legislation.

In Edward II. three further essential principles were established : the illegality of raising money without consent ; the necessity that the two Houses should concur for any alterations in the law ; and the right of the Commons to inquire into public abuses, and to impeach public councillors.

In this reign laws were declared to be made by the King at the request of the Commons, and with the assent of the Lords. The practice was, that the Petitions of the Commons with the respective answers made to them in the King's name were drawn up, after the end of the session, in the form of laws, and entered upon the Statute roll, but the Commons' Petitions were frequently modified by the King's answers. In the reign of Henry VI. (1422-1461) complete statutes under the name of Bills instead of the old Petitions were introduced, to which the King gave his consent and which he was not at liberty to alter. Either House could introduce a Bill, except in the case of money bills, which continued to originate exclusively in the Commons.

The Wars of the Roses almost destroyed the

Baronage, thus leaving the Crown unchecked, and Parliaments were in consequence practically in abeyance from Henry VI. to Elizabeth (1558—1603), a fact not without important significance. To remedy this, and at the same time to consolidate and establish the new order of things which followed upon the dissolution of the monasteries, Henry VIII. (1509—1547) created a number of new Peers by patent, a practice which has since been followed in increasing degree by his successors. The repudiation of the claim of the Pope to interfere in the settlement of the succession, and to depose Elizabeth, led to the doctrine of what was called Divine Right. This naturally issued in encroachments on the part of the Crown, under Elizabeth, James I. (1603—1625) and Charles I. (1625—1649), which were resisted by Parliament and people, notably in the remonstrances to James I., the Petition of Right to Charles I., and the Declaration of Right which was embodied in the Bill of Rights in 1689.

A few months after the execution of Charles I., Parliament by resolution abolished the Lords as useless and mischievous, but Cromwell was obliged in a very few years to endeavour to establish another second Chamber, because he found one alone was "the horriddest arbitrariness that ever was"; and the Lords came back again with the Restoration of the Monarchy.

With regard to the duration of Parliaments, some limitation each way was obviously necessary, first of all to ensure Parliament being convened; and secondly to prevent any Parliament voting

itself in permanence, as the Long Parliament practically did. By the Provisions of Oxford in 1258, it was enacted that three sessions should be held every year; in Edward II. that there should be one Parliament every year; in Edward III. Parliament every year or oftener as might be necessary. In Charles I. 1641 it was enacted that a new Parliament should be summoned every three years. The Triennial Act was repealed under Charles II. in 1664, re-enacted in 1694, and again repealed, and the Septennial Act passed in George I., 1716.

Each House had the right to regulate its own affairs. On this point Blackstone is very explicit. He says:—

“All Bills that may in their consequence any way affect the rights of the peerage are by the custom of Parliament to have their first rise and beginning in the House of Peers and to suffer no changes or amendments in the House of Commons.”

It has, however, been pointed out in a recent issue of the “Law Times” that “the Commentaries on the Laws of England were first published in 1765, in the pre-Reform era. The modern doctrine is thus stated by Sir Erskine May: ‘Any Bill concerning the privileges or procedure of either House should in courtesy commence in that House to which it relates. But Bills affecting the privileges of the other House have, nevertheless, been admitted without objection’ (May’s Parliamentary Practice, pp. 467—468). The Irish bishops were excluded from their seats in the



House of Lords in 1869 by a Bill brought from the Commons. In the House of Lords, in 1832, a Members' Seat Vacating Bill was introduced, while in the House of Commons on several occasions bills excluding the Lords Spiritual from the House of Lords, and bills affecting the method of electing Irish and Scotch representative peers, and their Parliamentary status, have been introduced in the House of Commons. The doctrine that a bill affecting one House could not be altered or amended by the other cannot be maintained, having regard to the history of the passage through the House of Lords of the Reform Acts of 1832, 1867 and 1885."

It has been frequently stated that since 1689 the Lords have in practice abandoned the claim to amend a bill which is obviously and demonstrably a money bill. This, however, is not altogether borne out by the records. In the "Times," of November 19th, 1909, a list was published extending to nearly two columns and a half, of instances from the year 1691, in which the Lords dealt in various ways with financial measures. In the year 1689, the year of the great Revolution, the Peers amended a money bill, but the Commons protested, and a conference followed, at which it was laid down by the Lower House, that the Lords had no right to interfere with such bills "otherwise than to pass or reject the same for the whole, without any alterations or amendments, and though in ease of the subject." However this may be, that they have this right to reject, is clearly stated by the highest authorities on



constitutional law, including Blackstone, Sir Erskine May, and Prof. Dicey. Between 1789 and 1811, they rejected no less than eight money bills without protest from the Commons. In the case of the Paper Duty in 1860, Lord Palmerston in a letter to the Queen said, "The Commons have always contended that the Lords cannot originate or alter a money bill, but it has never been contended that the Lords may not reject a money bill." Speaking in the House of Commons on May 16th, 1861, the late Mr. Gladstone said :—

"The House of Lords have never given up the power of amendment; and I must say I think they are perfectly right in declining to record against themselves this or any other limitation of their privileges, because cases might arise in which, from the illegitimate incorporation of elements not financial into financial measures, it might be perfectly wise and just for the Lords to fall back on an assertion of the whole breadth of their privileges. . . . The powers of this House (of Commons) must remain greater, on the whole, than those of the House of Lords; but I believe that to infringe the privileges of the House of Lords or to cripple the functions of that august assembly WOULD BE AS FATAL TO THE BALANCE OF THE CONSTITUTION AS WOULD BE THE LOSS OF THE PRIVILEGES OF THIS HOUSE ITSELF."

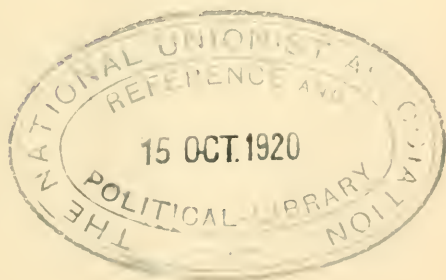
Through all its history the House of Lords has never lost its ancient right to share fully in all legislation, with the one and only qualification in respect of money bills.

With regard to these the constitutional theory is that the Sovereign requests a grant to such and such an amount, which is done through the Chancellor of the Exchequer, and the Commons pass Resolutions accordingly, a bill or bills to give effect to these Resolutions being subsequently introduced.

After the disorders of the Commonwealth, the history of our Parliamentary institutions has gradually developed and crystallized down to the present day by stages which do not here require to be traced in detail.

The general trend and ultimate result have been to do away with the initiative in legislation, and the appointment of Ministers, by the Crown, and to substitute what is probably a greater actual although apparently a lesser, function of balance. The unedifying conflicts between a Sovereign and his Ministers which were so lamentably frequent under the Georges are to-day almost unthinkable. The Sovereign is now King of all parties and all sections, and holds the position of impartial arbiter in all disputes. To have one who is above all parties, and can be trusted equally by all, is an advantage of the highest and most obvious value. And to enter upon any course which would interfere with or prejudice this, to drag the Crown into the party arena, would destroy the whole balance and equilibrium of the Constitution, and be detrimental to the best interests of the Empire in the highest degree. Those who claim to be purists in constitutional practice should be careful, while straining at the gnat, that they do not swallow the camel.

We now come to the Upper Houses of other Legislatures, and the cases of the United States of America, the German Empire, the Netherlands and Austria-Hungary, as Federations of component States, may be first considered.



# The United States

The form of Government is based on the Constitution of September 17th, 1789, with subsequent amendments.

The Senate consists of two members from each State chosen by the respective State Legislatures for six years. Senators must be not less than thirty years of age, must have been Citizens of the United States for nine years, and be residents in the States for which they are chosen.

The Senate is presided over by the Vice-President of the United States, who has a casting vote.

Senators are divided into three classes; those of the first class vacate their seats at the expiration of the second year, the second class at the expiration of the fourth year, and the third class at the expiration of the sixth year, so that one-third are chosen every second year. If vacancies happen by resignation or otherwise during recess of the Legislature of any State, the executive thereof may make temporary appointment until the next meeting of the Legislature, which shall then fill all vacaneies.

Attempts are being made in many States to compel the respective Legislatures to endorse the choice of popular nomination and to render the election as direct as possible.

Each House of each State Legislature votes separately for the Senator, and the name of the person receiving the majority of votes is entered

on the Journal of each House. The following day the Members of the two Houses convene in Joint Assembly, and if it is found that the same person has received a majority of all the votes in each House, he is declared elected Senator, but if not, the Joint Assembly then proceed to vote as one body.

Beside its Legislative functions, the Senate has the power of ratifying or rejecting all treaties made by the President with foreign Powers, a two-thirds majority of Senators present being required for ratification. It also has power of confirming or rejecting all appointments to offices made by the President. Its members constitute a High Court of Impeachment, but judgment in such cases extends only to removal from office and disqualification. The House of Representatives has the sole power of impeachment.

Congress has power to propose alterations in the Constitution. Whenever two-thirds of both Houses shall deem necessary, they propose amendments to the Constitution, or, on the application of the Legislatures of two-thirds of all the States, they call a Convention for proposing the amendment, which is valid as part of the Constitution when ratified by the Legislatures of three-quarters of the several States, or by Conventions in three-quarters thereof, as one or the other mode of ratification (Art. V.) is decided on.

The salary of a Senator, representative or delegate in congress, is 7,000 dollars per annum with travelling expenses. No Senator may hold any public office under the United States Government during his term in the Chamber.

All Bills for raising Revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other Bills (Sec. 7 of Constitution Art. 1)

Every Bill must pass both Houses ; then it must, before it becomes law, be presented to the President. If he approves, he signs it ; but if not, he returns it, with his objections, to that House in which it originated, who enter the objections on their Journal, and reconsider. If thereafter, two-thirds agree to pass, it is sent, together with the objections, to the other House, who reconsider, and if approved by two-thirds it becomes law.

In the event of persistent disagreement between the two Houses, the procedure is to appoint a Committee of Conference consisting of three members of each

Should the Committee fail to agree, another conference is usually asked for. If there should still be disagreement, a report is drawn up and presented by the conference to their respective Houses ; the Committee's report is then discussed by each House and may be either approved or rejected, but not amended. Continued disagreement leads to loss of the measure. Constitutional disputes between the two Houses, and all questions relating to the interpretation of the Constitution, are determined by the Judges, the Supreme Court being the final Court of Appeal. Even should any measure be passed by Congress and approved by the President, it is still liable to be declared unconstitutional by the Federal Court.

# The German Empire

The German Empire was established under the Constitution of 1871.

It consists of a Federation of all the States of Germany. The supreme direction of the military and political affairs of the Empire is vested in the King of Prussia, who in this capacity is entitled German Emperor.

The Bundesrat is the Federal Council, and represents the individual States of Germany. It consists of 58 members, who are appointed by the Government of the individual States for each Session, on a fixed scale proportioned to their population and importance.

The Reichstag is the Diet of the Realm and represents the German nation. It consists of 397 members (about one for every 132 thousand), elected by universal suffrage of males over 21, and by ballot, for a term of five years. Each member is allowed £150 a year, with deduction of £1 a day when absent. They have free passes over German Railways during the Session.

The Legislative period is five years. All laws must be promulgated by the Emperor, and countersigned by the Chancellor, and have an absolute majority in both Houses. There is no Cabinet, but Ministers act independently under general supervision of the Chancellor.

The Imperial Budget is voted every year by the Reichstag



All Bills, including Money Bills, must be first introduced in the Reichstag, and have then to be approved by the Bundesrat.

The members of the Bundesrat have the right to be present at deliberations of the Reichstag.

The Emperor has his own effectual way of dealing with deadlocks, namely, by dissolution. He has the right to prorogue and dissolve the Reichstag after a vote by the Bundesrat. Without consent of the Reichstag, the prorogation may not exceed 30 days; in case of dissolution, new elections must take place within 60 days, and a new Session must open within 90 days.

Acting under direction of the Chancellor, the Bundesrat represents the supreme administrative and consultative Board, and has 12 standing committees—for Army and Fortifications; Navy; Tariff, Excise and Taxes; Trade; Railways, Posts and Telegraphs; Law; Finance; Foreign Affairs; Alsace-Lorraine; Constitution; Standing Orders; and Railway Tariffs. Each Committee consists of representatives of at least four of the States of the Empire; but that for Foreign Affairs includes only representatives of Bavaria, Saxony and Württemberg, and two others elected every year.



# The Netherlands

The States General represent the entire Netherlands people, and exist under the Constitution of 1815, revised in 1848 and 1887.

They consist of two Chambers, the First or Upper, and the Second or Lower. Members of the First Chamber are elected by the Provincial States of each Province.

It will therefore be necessary first to describe the Provincial States. They are very ancient Dutch Institutions. Each province is acknowledged by the "Fundamental Law" or Constitution, as a separate body which enjoys a certain amount of autonomy, but the State's functions are strictly limited to provincial matters, and provincial resolutions, or regulations, must be sanctioned by the Crown before they can be enforced.

With a few exceptions (certain offices are a disqualification) every Netherlander who is in full possession of his civic rights, has attained the age of 25, and is a resident in the Province, is eligible for the membership of the Provincial States. Members are chosen for six years, but elections take place every three years, when half the number is elected. The number of members for each State varies very much. The Province of South Holland has the highest number—82; that of Drente the lowest—35. The Queen's "Commissary," formerly called Governor, and still called so colloquially, is appointed by the Queen and is the official head of

the Provincial States. In some respects a Governor corresponds to a Lord Lieutenant here.

The Provincial States usually meet only twice a year for about a fortnight. They, however, elect an executive of six members, or in certain provinces only four. These are named "Deputies" and carry on the government of the province, and have a variety of functions.

One of these is to make up the list of persons eligible for the Upper Chamber.

Candidates for the Upper Chamber must, to begin with, have the same qualifications needed for membership of the Lower Chamber, which are, full possession of civic rights and having completed their 30th year. Certain offices are a disqualification.

Members of the First Chamber are eligible, besides, either by holding or having held certain high Government offices, few in number, but chiefly by belonging to the highest category of tax-payers in each province. The number of eligible candidates is, however, limited to one for every 1,500 inhabitants of a province, so that eligibility is a very variable and entirely relative thing. It is the function of the Deputies of each Province to make up the list of eligible men according to the population of the province, and the amount of taxes paid by individuals. Members of the First Chamber are chosen for nine years. The Queen appoints one of the members President (Speaker) for one Parliamentary year.

The Queen has the right to dissolve each Chamber separately as well as the entire States General.

All Bills must first be submitted to the Second or Lower Chamber.

Bills that have passed in the Second Chamber are then sent up to the First, which either accepts or rejects them, but has no right of amendment.

The First Chamber consists of 50 members, elected by the Provincial States from among the most highly assessed inhabitants of the eleven provinces or from among certain high and important functionaries. Members not residing at the Hague are allowed 16s. 8d. per day during the Session. They are elected for a term of nine years, one to every three thousand, one-third retiring every three years.

The First Chamber, as well as the Second, has the right to institute a so-called "enquête," or commission of enquiry.

A change in the Fundamental Law of the Constitution can only be made in the following manner. The change proposed is first formulated and discussed, and a Bill is passed to the effect that such a change is desirable. Upon this both Chambers are dissolved. The new Chambers have to decide on acceptance or rejection, but the Second (*i.e.*, the Lower) Chamber in this case has no right of amendment. Two-thirds of the votes carried must be in favour of the proposed change for it to be embodied in the Constitution.

There has long been question of a change in the Fundamental Law, and a commission has been appointed to discuss the matter. The franchise is not quite so extensive as it is in England, and the chief change will be in that direction. At the

same time efforts will be made to strengthen the First Chamber. In influential quarters it is desired that certain Judges of the highest Courts of Justice should belong to the Senate, as it is sometimes called, by virtue of their office, and have the power to amend laws. In this way the First Chamber would be lifted out of the sphere of politics, and the First would form the check on the Second Chamber for which it was intended, but for which through its present constitution and limited action it is wholly unfit.

The Council of Ministers is appointed by the Sovereign.

The Hereditary principle was abolished in 1848.

# Austria-Hungary

The relations of these two States, consisting of an Austrian Empire and Hungarian Kingdom, were settled by the Compromise of 1867.

The Legislative power relating to common affairs is exercised by the Parliaments of both States. But examination of requirements of Common Service, and advising as to the amount of money to be voted for each, belongs to the "Delegations," of which there are two, consisting of 60 members each—20 from each of the two Upper Houses, and 40 from each of the two Lower Houses, appointed for one year. The Delegates are summoned annually by the Emperor and King to meet alternately at Vienna and Buda-Pesth. These deliberate independently, and communicate with one another in writing; if after three such interchanges they cannot agree, then all, or an equal number of each, meet, and without discussion, vote.

# Austria

The Upper House of the Reichsrath consists of Princes of Imperial family who are of age ; Nobles in whose families, nominated by the Emperor, the dignity is hereditary ; ten Archbishops and six Bishops of princely rank ; and Life members nominated by the Emperor for distinction in Art and Science or service in the Church or State. By the law of 1907, the number must not be less than 150, or exceed 170.

Members of both Upper and Lower Houses have the right to propose new laws ; the consent of both Chambers is necessary to validity.

Government Bills and motions can be introduced in the Upper House, with the exception of Money Bills and the Recruiting Bill, which must originate in the Lower House.

Arrangements have recently been made whereby a greater proportion of legislative measures than formerly will be initiated in the Upper House.

Members of the Upper House have the option of seeking election to the Lower Chamber, their functions in the Upper House being, in case of election, temporarily suspended so long as they sit in the Lower.

In the event of disagreement between the two Houses a Joint Committee is formed, with the object of arriving at an arrangement, without which no proposed measure can become law.

# Hungary

The Parliament of Hungary is constituted under the Charter of 1222, subsequently altered, repealed, and re-enacted from time to time.

The House of Magnates was re-formed in 1885. It consists of Archdukes over 18 years of age, Princes, Counts, and Barons over 24 years of age paying at least 6,000 crowns a year land tax, whose families possess the right of hereditary peerage; 42 Archbishops, Bishops and other dignitaries of Roman and Greek Churches; 13 Ecclesiastical and Lay Representatives of Protestant Churches; and Life Peers, elected by the Upper House itself, who are the representatives of former Members of the House of Magnates excluded in consequence of the re-organization effected in 1885. The number of these representatives, which was originally fifty, is gradually decreasing, the vacancies as they occur not being filled up. There are also 19 members ex-officio, being State dignitaries and high judges, and three delegates of Croatia-Slavonia. Members who sit by right of Royal appointment are Life Members, whose number cannot exceed fifty, and more than five of whom cannot be appointed by the King in one and the same year. As at present constituted the House comprises 15 Archdukes, 249 Hereditary Peers, and 67 Life Peers.

Members lose their right to sit :--

1. If, sitting in virtue of office or dignity, the cease to fill such office or such dignity.

2. If, having been appointed, or elected, they resign.

3. If, being the Delegates of Croatia-Slavonia, their mandates have expired.

4. If they have been condemned by a regular Tribunal to prison or banishment for a crime or for an offence committed "for Lucre."

5. If they lose their Hungarian nationality.

They may in some instances be temporarily suspended owing to failure to comply with necessary conditions, or in the case of Magnates being elected as Deputies.

Cabinet Ministers have seats in both Houses and may speak in either Chamber. The Resolutions come to in the Upper House are only valid if at least fifty members have been present. The initiative with regard to legislation belongs to both Houses, but by the Law of Re-organization (1885) the custom by which bills are always first introduced into the Chamber of Deputies remains in force for the present.

Money Bills must be first introduced into and passed by the Lower Chamber, and then be submitted to and passed by the Upper. They are then laid before the King for the Royal sanction.

Bills rejected by the Lower Chamber cannot be again discussed by that Chamber during the same Session, but Bills thrown out by the Upper Chamber can again form the subject of debate in the Lower



Chamber, and can again be sent up to the House of Magnates.

No constitutional disputes have arisen between the two Houses for many years.

The House of Magnates has also certain judicial functions, but the impeachment of Cabinet Ministers must be voted by the Chamber of Deputies.

# France

The Parliament of France was established under the Constitution of 1875, modified in 1884, 1885, and 1889.

The Senate consists of 300 members, elected for nine years "au scrutin de liste" (the system by which each elector in the Department is entitled to vote for as many candidates as there are seats to fill), from citizens not less than 40 years of age, one-third retiring every three years. The election is indirect, and is by electoral bodies composed of, first, Delegates chosen by the Municipal Council of each Commune, and of Parliamentary Deputies in proportion to population ; and secondly, Delegates chosen by the Councillors General and the District Councillors of the Department. Those elected thus were formerly 225 Senators ; to these were added 75 Life Senators elected by the two Chambers united ; but by the Act of 1884, vacancies in these are now filled by the election of ordinary nine years' Senators, the Department which should have the right of electing being determined by lot. Princes of deposed dynasties are ineligible from sitting in either House.

Bills may be presented either in the Chamber or the Senate by the Government or private members. Financial laws must be first presented to and voted by the Chamber of Deputies. Both Chambers must vote a law before it is promulgated.

Disagreements between the two Houses on finan-

cial matters have usually been arranged by a compromise on the actual question at issue, without the principle being made the subject of conflict, and when the Senate has yielded it has been under the express understanding that its full rights in financial matters are reserved.

The Senate, as a High Court of Justice, tries cases of attempt against the safety of the State, or of plotting to change the form of government.

Senators and Deputies receive £600 a year (15,000 francs) and travel free on all railways by means of a small annual payment.

The Chambers have the right by separate deliberations, passed in each House by an absolute majority of votes, either on their own initiative or on that of the President of the Republic, to declare the necessity of revising the constitutional laws. After each Chamber shall have passed this Resolution, they shall meet as a National Assembly to proceed to this revision.

In the event of disagreement between the Senate and the Chamber, the following Rules of Procedure have been drawn up :—

ARTICLE 130. When a Bill voted by the Senate has been modified by the Chamber of Deputies, the Senate may either deliberate again on the Bill or submit it to the “ bureaux ” of the House, or send it back to the Committee which has already considered it. The Senate may also, on the proposal of one of its Members, determine that a Committee be appointed to confer with a Committee of the Chamber of Deputies with the object of agreeing on a text.

ARTICLE 131. If the two Committees come to an agreement, the Senate Committee reports to that body, which takes the new text into consideration.

If the Senate refuses to accept the proposal for a Conference, the Bill may not be again placed on the order of the day until two months have elapsed, except on the initiative of the Government.

The same will occur in cases where the Committee of the two Chambers fail to agree, or if the Senate persists in its original resolution.

ARTICLE 144. When a Bill voted by the Chamber of Deputies has been modified by the Senate, the Chamber of Deputies may determine that a Committee be appointed to meet a Committee from the Senate with the object of agreeing upon a text.

The Chamber shall decide if powers to this effect shall be conferred on the Committee which has already reported on the Bill, or on a new Committee elected from among the "bureaux" of the House.

ARTICLE 145. If the two Committees agree on a text, the Committee named by the Chamber of Deputies reports to that Assembly, which thereupon deliberates again on the matter.

ARTICLE 146. If the Chamber of Deputies refuses to agree to the proposal for a Conference, the Bill may not be again placed on the order of the day until two months have elapsed, except on the initiative of the Government. The same will occur in cases where the two Committees fail

to agree on a text, or if the Chamber persists in its original resolution.

The President of the Republic negotiates and ratifies Treaties, but he must inform the Chambers of such Treaties as soon as the interest and safety of the State permit. Treaties of Peace and Commerce, those engaging the finances of the State,<sup>¶</sup> or relating to the personal status or rights of property of French citizens abroad, are not definitive until they have been passed by the two Chambers. No cession, exchange, or increase of territory can take place except by virtue of a law.

# Belgium

The Legislature of Belgium presents certain features of special interest owing to the complication of the methods of constitution and more particularly on account of the cumulative vote, and the obligation on all electors to exercise the franchise.

The Parliament was established under the Constitution of 1831 at the time of the breaking off from Holland.

The Senate consists of 110 members elected for nine years, one quarter being subject to re-election every four years, a portion directly and a portion indirectly. Those elected directly amount to one half the number of the Chamber of Representatives, and are proportioned to the population of each province. Electors must be over 30 years of age, otherwise the qualifications are the same as those for the House of Representatives. The principle of proportional representation of parties prevails, one Senator being elected for every 80,000 persons. The number of electors for the Senate in 1907-8 was 1,377,297, of whom 739,258 had one vote each, 360,803 had two votes each, and 277,236 had three votes each.

The Senators elected indirectly by Provincial Councils are two for each province with less than a quarter of a million inhabitants, three for each up to one million, and four for each over one million. No Senator must, during the preceding two years, have been a member of the Council electing him. All Senators must be at least 40 years of age, and

those elected directly must pay not less than 12,000 francs in direct taxes, or own immovable property in Belgium yielding an income of 12,000 francs. Those elected by the Provincial Councils are not required to possess this property qualification. In provinces where the number eligible for the Senate would be less than one in 5,000 of population, the list is extended to this proportion by admission of the most highly taxed. Sons of the King, or failing these, Belgian princes of reigning branches of the Royal family, are by right Senators at the age of 18, but have no voice until they are 25.

Money Bills, and Bills relating to the Army, must originate in the Chamber of Representatives.

Deputies to the House of Representatives must be not less than 25 years of age, and resident in Belgium.

The number of Representatives, to which the number of directly elected Senators is proportioned, is itself proportioned to the population, and does not exceed one to every 40,000. They are elected for four years, one half retiring every two years, except after a dissolution, when a general election takes place. Every citizen over 25 years of age domiciled in the same commune for one year, and not legally disqualified, has one vote. Every citizen over 35 years of age, with legitimate issue and paying at least five francs a year in house tax, has a supplementary vote, also every citizen over 25 years of age, owning immovable property to the value of 2,000 francs or corresponding income, or who for two years has derived at least

100 francs a year from Belgian funds. Two supplementary votes are given to citizens over 25 years of age having diploma of higher education or certificate of higher secondary institution, or who fill or have filled offices or have been engaged in private professional practice implying at least an average higher education. No one can have more than three votes, and failure to vote is an offence punishable by law.

The fact that the same body of voters elect both Chambers is a serious evil, as it makes one Chamber very much a repetition of the other, and fails to secure the independence of outlook and stability which are so essential in a Second Chamber.

Article 27 of the Constitution provides that initiation belongs to each branch of the Legislative power, but that every law relating to finance or the Army must be first voted by the Chamber of Representatives. There has been considerable difference of opinion from time to time as to the interpretation of this clause, but the opinion expressed in a despatch to Sir Edward Grey, is to the effect that, the restriction with regard to the initiation of Money Bills being an anomaly, its interpretation should be liberal, and that the Senate not only has the right to accept or reject a Money Bill, but also to amend it.

The right of the Senate to amend or reject measures other than Money Bills has never been questioned.

No disputes have ever yet assumed the proportions of a serious struggle, but have been allowed to drop or have ended in an amicable compromise.



# Italy

The Parliament of Italy was established under the Constitution, which was an expansion of that of Sardinia, of 1848.

The Senate is composed of Princes of the Royal House over 21 (with right to vote when 25) and an unlimited number of Life Members over 40 years of age, appointed by the King, but nominated by his Ministers, and famous in Science, Literature, or other pursuit tending to benefit the nation, and paying in taxes not less than £120, and belonging to one of 21 categories. In 1908 there were 319, and five members of the Royal family. These have the privilege to travel free on certain lines of railway and steamers.

The Lower Chamber is elected for five years, and must meet annually ; the King may dissolve at any time, but must order new elections and con- has within four months. Each of the Chambers voke the right of introducing new bills, but all Money Bills must originate in the Lower House. The two Chambers have an equal right to approve, amend, or reject Bills. When a Bill, introduced in one Chamber, is amended by the other, the Bill with the amendments is submitted afresh to the Chamber in which it was originally presented. It then returns to the amending Chamber, and this procedure is repeated when there are differences of opinion between the two Houses until an agreement is reached.

There have been differences of opinion between the two Chambers, but they have never yet resulted in a conflict. There is no provision in the "Statute" for the settlement of disputes between the Chambers.

The Executive power is a Cabinet of 11 Members, under the King. Members of the Cabinet may attend debates in either House, but vote only in their own. No sitting is valid unless an absolute majority of members is present.

The Senate is also invested with certain judicial functions.

# Spain

The Parliament of Spain was established under the Constitution of 1876.

Senators must be 35 years of age, and may accept no office (except that of Ministers of the Crown), promotion, title, or decoration, while the Cortes are sitting.

Members of the Senate are of three classes ; the first, those sitting in their own right ; the second, 100 Life Senators nominated by the Crown ; and the third, 180 elected by Corporations of the State, *i.e.*, Communal and Provincial States, Church, Universities, and Academies, and by the largest payers of contributions.

Non-elected Senators are not to exceed in number the 180 elected.

The following, being Spaniards, may be nominated or elected Senators :—

1. Presidents of Senate and Chamber of Deputies.
2. Deputies who have set in three different Parliaments, or in eight Parliamentary Sessions.
3. Ministers of the Crown.
4. Bishops.
5. Grandees of Spain.
6. Lieutenant-Generals and Vice-Admirals after two years' employment.
7. Ambassadors after two, and Ministers Plenipotentiary after three years' active service.
8. Members of Council of State, Supreme Council

of War and Marine, and various other officers of the law and military orders.

9. Presidents of the six Academies, viz., Royal Academy of Spain, and Academies of History, Fine Arts, Exact Sciences, Moral and Political Science, and Medicine.

10. Senior members of the above Academies, Inspectors-General of Civil Engineers, University Professors of four years' seniority. They must have an income of 7,500 pesetas (£300) a year.

11. All persons of title, ex-Deputies to Cortes or provincial Assemblies, ex-Mayors of provincial capitals and towns of over 20,000 inhabitants. These must have an income of 20,000 pesetas (£800) a year, or pay 4,000 pesetas (£160) in direct taxes.

12. Ex-Senators under former Constitutions.

Royal Decrees nominating life Senators must specify to which of the above twelve categories the nominee belongs.

Of the first class there are the Sons of the King and the Heir Apparent who have attained their Majority, Grandees with an annual rental of £2,400; Captains General of the Army; Admirals of the Navy; Patriarch of Indies and Archbishops; Presidents of the Council of State, Supreme Tribunal, Courts of Accounts, and the Supreme Councils of War and Navy after two years of office.

The Elective Senators (third class) must be renewed, either half every five years, or entirely after dissolution.

No pay is given, and either Chamber can initiate Legislation.

Laws relating to taxes and the public credit must be first presented in the Chamber of Deputies, but the power of the Senate to reject or modify Money Bills is unquestioned.

In the event of disagreement between the two Chambers a committee composed of an equal number of Senators and Deputies is formed.

In the Senate, as in the Chamber of Deputies, decisions are taken by majority of votes, but to pass a law half the full number of Senators plus one must be present.

The Senate has also certain judicial functions.

# Portugal

The Parliament of Portugal was established under the Constitution of 1826, which was re-established in 1849, and has since been repeatedly modified.

The Hereditary Peerages were gradually abolished by the law of 1835.

The Upper House consists of Life Peers appointed by the King, not exceeding 60, and of Princes of the Royal Family of 25 years of age and upwards, and 12 Bishops. Members must be over 40 years of age, must have received a secondary education and must be in possession of an annual income of not less than £90.

All purely legislative functions are common to both Chambers, including the control over the public finances, but the initiative of financial measures and of Bills for the recruitment of the Army and Navy rests solely with the Chamber of Deputies.

The duration of each Parliament is fixed at three years. The legal period for Session is three months in each year, but provision is made for prolonging ordinary Sessions and for calling extraordinary Sessions.

Ministers of the Crown sit and take part in the debates in both Chambers, but only vote in that Chamber of which they are Members.

When one of the Legislative Chambers does not approve in whole or in part of any Bill issuing

from the other Chamber, or does not approve the amendments or additions made by the other Chamber to any Bill, a Committee of an equal number of Peers and Deputies is appointed, and in accordance with the decision of the majority of the Committee, the Bill either becomes law, or is rejected. If there be an equality of votes, or if the Committee can come to no agreement, either of the Chambers may petition the Crown for the reassembly of the Cortes with a special mandate to deal finally with the matter.

No Constitutional disputes have arisen within the last twelve years between the two Chambers.

The Upper House has also certain judicial functions.

# Switzerland

The Parliament of Switzerland was established under the Constitution of 1874, and the law of October 9th, 1902.

The State Council consists of 44 members chosen two for each Canton, each conducting the election according to its own methods. Any alterations in the Constitution must be submitted to a Referendum. Laws passed by the Federal Assembly may be negatived by a popular vote. Any laws passed by both Chambers have to be subjected to the Referendum should 30,000 voters desire it.

There is, according to the Swiss Constitution and the law regulating the position of the two Chambers, no Upper Chamber in the sense employed in other countries. The consent of both Chambers is indispensable for the passing of a measure.

The following are the provisions of the Constitution for dealing with disagreement between the two Chambers :—

ARTICLE 5. If the decision of one Chamber do not correspond with those already taken by the other, they are returned to the latter in order that the points at issue may be discussed.

The fresh discussion is confined to these points, unless, as a result of amendments adopted, another discussion becomes necessary, or unless the repre-



sentatives of the two Chambers mutually propose one.

The two Chambers follow this course until an agreement is established between them, or until each Chamber decides to abide by its Resolutions.

ARTICLE 6. When this occurs the differences between them are submitted to a Conference, at which the United Committees of the two Chambers must endeavour to arrive at an understanding. Should the Committee of one Chamber be smaller than that of the other, it must be made up to the same number of Members.

The Conference is presided over by the President of the Committee, representing the Chamber which had the priority in the discussion of the measure.

ARTICLE 7. The proposal formulated by this Conference with the object of eliminating the divergences of opinion is communicated in the first instance to the Chamber which has had the priority with regard to the measure in question.

If the Conference does not succeed in formulating a proposal, or if an agreement cannot be come to in the Chambers on the proposal, the project is considered to be thrown out, and can only be considered again by having recourse to the forms laid down by statute for further legislation.

ARTICLE 8. When the deliberations are concluded in the two Chambers, laws and Decrees of general interest are referred to a revising Committee to be drawn up in their final form, and to make any purely formal corrections in accordance with the existing law, the primary object being to

secure conformity in the French and German texts. The Committee has no power to modify the decisions of the Chambers.

The amended text is returned to the Chambers, and, if approved by them, each Chamber proceeds to the final vote.

The final vote is indispensable even if the project has not been submitted to the revising Committee.

If on this final vote the project is rejected by the two Chambers, or by one of them, it is considered abortive, and can only be reconsidered if brought forward in the manner prescribed by statute for further legislation.

The Budget is prepared by the members of the Federal Council in charge of the Finance Department, and is then submitted to both Chambers. Although there is no written rule to that effect, priority is given to each Chamber in alternate Sessions, absolute equality between both Chambers being thus maintained. A Budget, however, is never thrown out entirely, as an agreement between the two Chambers is always arrived at.

# Norway

The Parliament of Norway was established under the Constitution of 1814, but separated from Sweden in 1905.

Strictly speaking, there is no Upper Chamber, though in some respects the Lagthing fulfils the functions of such a Chamber.

The Parliament is called the Storting. Every citizen not legally disqualified and over 25 years of age is an elector. Women may vote if they have paid income tax on 400 kroner in the towns, or 300 kroner in the country. Elections take place every three years, the country being divided into 123 electoral districts, each district returning one member.

Representatives must be not less than 30 years of age, and have resided in Norway for ten years, and be voters in districts where they are chosen. Former members of the Council of State can be elected for any district.

The Storting when assembled divides itself into two Houses, one quarter in the Upper House, and three-quarters in the Lower. Questions relating to laws must be considered by each House separately. Inspection of public accounts and revision of Government belong exclusively to the Lower House. All other matters are settled by the two Houses sitting together. All new laws must first be laid before the Lower House. If the two Houses do not agree, they deliberate together, the final decision

being settled by a majority of two-thirds of the voters. The same majority is required for alterations in the Constitution.

Every member is paid 13s. (12 kroner) a day, and travelling expenses.

# Sweden

The Parliament of Sweden was established under the Constitution of 1809, the composition of the Diet being fixed under the law of 1866, and modified in 1909.

The Diet consists of two Chambers, both elective.

The Upper Chamber consists of 150 members, elected by the Provincial Assemblies, 25 in number, and Municipal Corporations of towns not therein represented, in proportion to population. Constituencies are arranged in six groups, in one of which an election takes place every year. All members must be above 35 years of age, and have possessed for at least three years, either real property to the taxed value of £2,777, or have been rated for income tax on at least £220, and are elected for a term of nine years. They sit in each case for nine years from the day of their election, each vacancy being filled as it occurs.

Members are paid £66 for each Session of four months, and travelling expenses.

The right of imposing taxes is vested in the Diet.

The Swedish Constitution accords perfectly equal competence both in financial and other questions to both Chambers, which share the legislative authority with the King. Legislation requires the assent of both Chambers, voting independently, except in financial questions, where, under certain circumstances, a common vote is taken; but Parliamentary practice allows, when the decision of the Houses

shows only a slight divergence, arising from the adoption in one Chamber of an amendment not accepted by the other, that the matter in hand should be referred back to a committee, with a view to effecting a compromise acceptable to both.

Financial questions on which the decisions of the two Chambers are in conflict are submitted to a common vote of both Houses voting as one body, when the absolute majority is decisive.

# Denmark

The Parliament of Denmark was established under the Constitution of 1849, and subsequently modified in 1855, 1863, and 1866.

The Danish Rigsdag, or Parliament, is composed of two Chambers, the Lower House, known as the Folketing, and the Upper House, known as the Landsting.

The Landsting consists of 66 Members, of whom twelve are nominated by the Crown for life from among the actual or former representatives of the Kingdom ; the remainder are elected by the people for eight years—seven representing the town of Copenhagen—by electoral bodies composed partly of deputies from a body of citizens possessing the franchise ; half of the number of elected members retiring by rotation every four years. Every citizen over 25 years of age, and resident in the district, is eligible for election. The exact methods of election are extremely complicated. The franchise belongs to every male citizen above 30 years of age, not in receipt of public charity or in private service without having his own household, and who has resided at least one year in the electoral district.

Members are paid 10 kroner (11s. 1d.) per day for the first six months of the Session, and 6s. 6d. per day after. They also have second-class free railway passes, and travelling expenses to and

from Copenhagen at the beginning and at the end of the Session.

Money Bills must be first submitted to the Lower House.

With this exception the two Houses enjoy the same privileges in regard to legislation, including finance.

## Russia

The State Council of Russia was established under the law of 1905.

It consists of an equal number of elected members and members nominated by the Emperor. Those elected are for a term of nine years, one-third retiring every three years. Each Provincial Assembly elects one; the Synod of Orthodox Church, six; Academy of Sciences and Universities, six; Bourses of Commerce and Industry, twelve; Nobility, eighteen; and the Landed Proprietors of Poland, six.

All members must be over 40 years of age, and have an Academical degree.

The State Council and Duma have equal Legislative powers and initiative.



# Japan

The Parliament of Japan was established under the Constitution of 1889.

The House of Peers consists of first, male members of the Imperial family, and Peers over 25 years of age elected by their respective orders, not exceeding one-fifth of the number of each order (the orders being the same as in England); secondly, persons over 30 years of age nominated by the Emperor for distinguished service or erudition; thirdly, persons elected in certain local areas and paying the highest amount of direct national taxes, and nominated by the Emperor. The lower orders of nobility and last category are for seven years, others for life. The last two categories must not exceed the number of the three first. Nominated members are paid at the rate of £200 a year and travelling expenses.

Both Houses may initiate legislation. Cabinet Ministers are appointed by the Emperor, and are responsible to him.

The Imperial Diet, consisting of the two Houses, has control of finance.

The House of Peers has rights of both veto and amendment of any measure, either financial, or of any other character.

In the event of disagreement between the two Houses, a Committee consisting of selected members of each House, less than ten in number respectively, is appointed, and its decision is sent to both Houses for their final refusal or acceptance.

# Canada

The Dominion of Canada was federated in 1867, Parliament being formed under the Constitution of that year.

Members of the Senate are nominated for life by the Governor-General, and are 87 in number. They must be at least 30 years of age, born or naturalized subjects, must be resident, and possess property to the value of at least 4,000 dollars, and must reside within the Province for which they are appointed. There is an allowance of 2,500 dollars per Session, or, as stated by Bourinot, 1,000 dollars per month.

Fifteen members are necessary to form a quorum. Non-attendance for two whole Sessions vacates seat.

Money Bills can only originate in the House of Representatives. The Senate can reject, but not amend. The recommendation of the Crown is required before initiation of a Money vote in Parliament.

The Constitution is similar in principle to that of the United Kingdom.

# Australia

The Parliament of the Commonwealth of Australia was established under the Constitution of 1900.

The Senate is composed of six Senators for each State, directly chosen by the people of the State, voting as one electorate. Qualification of electors is the same as prescribed by the law of each State for electors of the most numerous House of Parliament in such State.

Senators are chosen for a term of six years. They are divided into two equal classes, retiring alternately every three years. The place of a Senator shall become vacant if for two consecutive months of any Session of the Parliament he, without the permission of the Senate, fails to attend.

At least one-third of the whole number of the Senators is necessary to form a quorum, a simple majority sufficing.

The qualifications of a member of the Senate, and of electors and Senators, are the same as in respect of the House of Representatives, namely :—

1. He must be of the full age of twenty-one years, and must be an elector entitled to vote at the election of members of the House of Representatives, or a person qualified to become such elector, and must have been for three years at the least a resident within the limits of the Commonwealth as existing at the time when he is chosen.

2. He must be a subject of the King, either natural-born or for at least five years naturalized under a law of the United Kingdom, or of a Colony which has become or becomes a State, or of the Commonwealth or of a State.

Any person who :—

1. If under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power ; or

2. Is attainted of treason, or has been convicted and is under sentence, or subject to be sentenced, for any offence punishable under the law of the Commonwealth, or of a State, by imprisonment for one year or longer ; or

3. Is an undischarged bankrupt or insolvent ; or

4. Holds any office of profit under the Crown, or any pension payable during the pleasure of the Crown out of any of the revenues of the Commonwealth ; or

5. Has any direct or indirect pecuniary interest in any agreement with the Public Service of the Commonwealth otherwise than as a member and in common with the other members of an incorporated company consisting of more than twenty-five persons ; shall be incapable of being chosen or of sitting as a Senator or as a member of the House of Representatives.

Until the Parliament otherwise provides, each Senator and each member of the House of Representatives shall receive an allowance of four hundred

pounds a year, to be reckoned from the day on which he takes his seat.

Proposed laws appropriating Revenue or Monies or imposing taxation shall not originate in the Senate.

The Senate may not amend proposed laws imposing taxation, or proposed laws appropriating revenue or monies for the ordinary annual service of the Government.

The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make any of such omissions or amendments, with or without modifications.

Except as provided in this section, the Senate shall have equal power with the House of Representatives in respect of all proposed laws.

If the House of Representatives passes any proposed law, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, and if after an interval of three months the House of Representatives, in the same or the next Session, again passes the proposed law with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree,

the Governor-General may dissolve the Senate and the House of Representatives simultaneously. But such dissolution shall not take place within six months before the date of the expiry of the House of Representatives by effluxion of time.

If after such dissolution the House of Representatives again pass the proposed law, with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may convene a joint sitting of the members of the Senate and of the House of Representatives.

The members present at the joint sitting may deliberate and shall vote together upon the proposed law as last proposed by the House of Representatives, and upon amendments, if any, which have been made therein by one House and not agreed to by the other, and any such amendments which are affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives shall be taken to have been carried, and if the proposed law, with the amendments, if any, so carried is affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives, it shall be taken to have been duly passed by both Houses of the Parliament, and shall be presented to the Governor-General for the assent of the Crown.

# South Africa

The States of South Africa were united in the year 1909, and the Parliament was established under the Constitution of that year.

For ten years after the establishment of the Union the Senate is to consist of eight Senators nominated by the Governor-General in Council, holding their seats for ten years, one-half of this number being selected with reference to their acquaintance with the coloured races ; also eight Senators to be elected for each of the original provinces.

Senators representing each province are to be elected by both Houses of the Legislature of such province, sitting together. The qualifications of a Senator shall be as follows :—

- (a) He must be not less than thirty years of age ;
- (b) be qualified to be registered as a voter for the election of members of the House of Assembly in one of the provinces ;
- (c) have resided for five years within the limits of the Union as existing at the time when he is elected or nominated, as the case may be ;
- (d) be a British subject of European descent ;
- (e) in the case of an elected Senator, be the registered owner of immovable property within the Union of the value of not less than five hundred pounds over and above any special mortgages thereon.

At least twelve Senators are necessary to con-



stitute a meeting of the Senate for the exercise of its powers, a majority of votes of Senators present sufficing.

A member of either House shall be incapable of sitting as a member of the other House ; provided that every Minister of State who is a member of either House of Parliament shall have the right to sit and speak in the Senate and the House of Assembly, but shall vote only in the House of which he is a member.

A person shall be disqualified who :—

(a) has been at any time convicted of any crime or offence for which he shall have been sentenced to imprisonment without the option of a fine for a term of not less than twelve months, unless he shall have received a grant of amnesty or a free pardon, or unless such imprisonment shall have expired at least five years before the date of his election ; or

(b) is an unrehabilitated insolvent ; or

(c) is of unsound mind, and has been so declared by a competent court ; or

(d) holds any office of profit under the Crown within the Union ; Provided that the following persons shall not be deemed to hold an office of profit under the Crown for the purpose of this sub-section ;

(1) a Minister of State for the Union;

(2) a person in receipt of a pension from the Crown ; or

(3) a retired military or naval officer.

If a Senator or Member of the House of Assembly :—



(a) becomes subject to any of the disabilities mentioned in the last preceding section ; or

(b) ceases to be qualified as required by law ; or

(c) fails for a whole ordinary Session to attend without the special leave of the Senate or the House of Assembly, as the case may be ;  
his seat shall thereupon become vacant.

Each Senator shall receive an allowance of four hundred pounds a year.

Finance Bills originate in the House of Assembly. The Senate may not amend any such Bills, but has the right of rejection.

Bills for the appropriation of revenue must be recommended by message from the Governor-General.

If the House of Assembly passes any Bill and the Senate rejects or fails to pass it or passes it with amendments to which the House of Assembly will not agree, and if the House of Assembly in the next Session again passes the Bill with or without any amendments which have been made or agreed to by the Senate and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Assembly will not agree, the Governor-General may during that Session convene a joint sitting of the members of the Senate and House of Assembly. The members present at any such joint sitting may deliberate and shall vote together upon the Bill as last proposed by the House of Assembly and upon amendments, if any, which have been made therein by one House of Parliament and not agreed to by the other ; and any such amendments which are affirmed by a

majority of the total number of members of the Senate and House of Assembly present at such sitting shall be taken to have been carried, and if the Bill with the amendments, if any, is affirmed by a majority of the members of the Senate and House of Assembly present at such sitting, it shall be taken to have been duly passed by both Houses of Parliament ; Provided that, if the Senate shall reject or fail to pass any Bill dealing with the appropriation of revenue or monies for the public service, such joint sitting may be convened during the same Session in which the Senate so rejects or fails to pass such Bill.

## Conclusion

The great outstanding, essential difference, it will be seen, between our Upper House and others, is, not so much that it is hereditary while most of them are elective, but that they are modern manufactured articles while it is a natural product—a growth, a development, an evolution. The story of this evolution, already briefly sketched, is it not written in the books of the *Chronicles of Green*, and *Stubbs*, and *Hallam* ? It is most noticeable that of all other Legislatures as at present constituted, not one is earlier than the French Revolution ; few, than the accession of Queen Victoria. It has been suggested that the Hungarian Chamber of Magnates is a possible exception, but this was reconstituted in 1885. Certain features emerge repeatedly—an age limit, vacation of seats through non-attendance, the fixing of a quorum, and payment of members. The latter usually obtains in countries which are either poor, or have not an independent and leisured class with traditions of public service. It will also be seen that in all cases, Upper Houses have the right of rejecting money bills, and in many, of amending them. Some Upper Chambers are nominated, some hereditary, some elected directly, some indirectly, and others are constituted by various combinations of these methods. In some cases women are on the electoral register. It will also be noted what sedulously careful

precautions are provided in the United States, in France, in the Netherlands, and elsewhere, to prevent any sudden and violent change in the Constitution. In some places, at any rate, they have had enough of coups-d'état. But, while other States have thus their machine-made Constitutions, often the outcome of revolution, ours has "slowly broadened down from precedent to precedent." It may not be so logical, so symmetrical; but it has stood the test of time, and has been modified as occasion may have required to adapt it to the growth and development of the nation. It is the result and the expression of the genius of the British race for self-government; of that restraint and moderation and regard for precedent and stability, which come out so strongly in Macaulay's account of the Revolution Settlement at the end of the seventeenth century; of that aversion from pushing anything to an extreme which, if not exactly logical, is at any rate so eminently practical.

Let us beware how we allow it to be tampered with by demagogues ignorant alike of its history and of its value. It is not outworn yet, but is still capable of adaptation and adjustment. A tree may be cut down in a few hours that has taken centuries to grow; but once down, it can never be restored. Let it be our part, in this latest generation, while adapting as necessity arises, to maintain in unbroken continuity, and to hand on to those who shall come after, that glorious Constitution under which through the long centuries England has grown to greatness.



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